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112TH CONGRESS
2D SESSION

H. R. 5930

To amend the Internal Revenue Code of 1986 to increase the rehabilitation credit for commercial buildings and to provide a rehabilitation credit for principal residences.

IN THE HOUSE OF REPRESENTATIVES

JUNE 8, 2012

Mr. MCKINLEY (for himself, Mr. GRIMM, Mr. CARSON of Indiana, and Mr. KILDEE) introduced the following bill; which was referred to the Committee on Ways and Means

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A BILL

To amend the Internal Revenue Code of 1986 to increase the rehabilitation credit for commercial buildings and to provide a rehabilitation credit for principal residences.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Preserving America's Downtowns and Heritage Act of 2012''.

SEC. 2. INCREASED REHABILITATION CREDIT FOR COMMERCIAL BUILDINGS.

(a) BUILDINGS OTHER THAN CERTIFIED HISTORIC STRUCTURES.—Paragraph (1) of section 47(a) of the In-

ternal Revenue Code of 1986 (relating to rehabilitation credit) is amended by striking ''10 percent'' and inserting ''12.5 percent''.

(b) CERTIFIED HISTORIC STRUCTURES.—Paragraph (2) of such section is amended by striking ''20 percent'' and inserting ''25 percent''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to rehabilitations the physical work on which begins after the date of enactment of this Act.

SEC. 3. REHABILITATION CREDIT FOR HISTORIC PRINCIPAL RESIDENCES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 25D the following new section:

''SEC. 25E. REHABILITATION OF HISTORIC PRINCIPAL RESIDENCES.

''(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 20 percent of the qualified rehabilitation expenditures made by the taxpayer with respect to a qualified historic home.

"(b) QUALIFIED REHABILITATION EXPENDITURE.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified rehabilitation expenditure' means any amount properly chargeable to capital account—

"(A) in connection with the certified rehabilitation of a qualified historic home, and

"(B) for property for which depreciation would be allowable under section 168 if the qualified historic home were used in a trade or business.

"(2) CERTAIN EXPENDITURES NOT INCLUDED.—Rules similar to the rules of clauses (ii) and (iii) of section 47(c)(2)(B) shall apply.

"(3) MIXED USE OR MULTIFAMILY BUILDING.—If only a portion of a building is used as the principal residence of the taxpayer, only qualified rehabilitation expenditures which are properly allocable to such portion shall be taken into account under this section.

"(c) CERTIFIED REHABILITATION.—For purposes of this section—

"(1) IN GENERAL.—The term 'certified rehabilitation' has the meaning given such term by section 47(c)(2)(C).

"(2) APPROVED STATE PROGRAM.—The term 'certified rehabilitation' includes a certification made by—

"(A) a State Historic Preservation Officer who administers a State Historic Preservation Program approved by the Secretary of the Interior pursuant to section 101(b)(1) of the National Historic Preservation Act, or

"(B) a local government, certified pursuant to section 101(c)(1) of the National Historic Preservation Act and authorized by a State Historic Preservation Officer, or the Secretary of the Interior where there is no approved State program, subject to such terms and conditions as may be specified by the Secretary of the Interior for the rehabilitation of buildings within the jurisdiction of such officer (or local government) for purposes of this section.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED HISTORIC HOME.—The term 'qualified historic home' means a certified historic structure—

"(A) which has been substantially rehabilitated, and

"(B) which (or any portion of which)—

"(i) is owned by the taxpayer, and

"(ii) is used (or will, within a reasonable period, be used) by such taxpayer as his principal residence.

"(2) SUBSTANTIALLY REHABILITATED.—The term 'substantially rehabilitated' has the meaning given such term by section 47(c)(1)(C).

"(3) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as when used in section 121.

"(4) CERTIFIED HISTORIC STRUCTURE.—

"(A) IN GENERAL.—The term 'certified historic structure' means any building (and its structural components) which—

"(i) is listed in the National Register, or

"(ii) is located in a registered historic district (as defined in section 47(c)(3)(B)) and is certified by the Secretary of the Interior as being of historic significance to the district.

"(5) REHABILITATION NOT COMPLETE BEFORE CERTIFICATION.—A rehabilitation shall not be treat-

ed as complete before the date of the certification referred to in subsection (c).

"(6) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—If the taxpayer holds stock as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such stockholder shall be treated as owning the house or apartment which the taxpayer is entitled to occupy as such stockholder.

"(e) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) IN GENERAL.—In the case of a taxable year to which section 26(a)(2) does not apply, the credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

"(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(B) the sum of the credits allowable under subpart A (other than this section and section 25D) and section 27 for the taxable year.

"(2) CARRYFORWARD OF UNUSED CREDIT.—

"(A) IN GENERAL.—If the credit allowable under subsection (a) for any taxable year exceeds the applicable tax limit for such taxable

year, such excess shall be a carryforward to each of the 5 succeeding taxable years and, subject to the limitations of subparagraph (B), shall be added to the credit allowable by subsection (a) for such succeeding taxable year.

"(B) AMOUNT CARRIED TO EACH YEAR.—Rules similar to the rules of section 39(a)(2) shall apply for purposes of this paragraph.

"(C) LIMITATION.—The amount of the unused credit which may be taken into account under subparagraph (A) for any taxable year shall not exceed the amount (if any) by which the applicable tax limit for such taxable year exceeds the sum of—

"(i) the credit allowable under subsection (a) for such taxable year determined without regard to this paragraph, and

"(ii) the amounts which, by reason of this paragraph, are carried to such taxable year and are attributable to taxable years before the unused credit year.

"(3) APPLICABLE TAX LIMIT.—For purposes of this paragraph, the term 'applicable tax limit' means—

"(A) in the case of a taxable year to which section 26(a)(2) applies, the limitation imposed by section 26(a)(2) for the taxable year reduced by the sum of the credits allowable under this subpart (other than this section and section 25D), and

"(B) in the case of a taxable year to which section 26(a)(2) does not apply, the limitation imposed by section 26(a)(1) for the taxable year reduced by the sum of the credits allowable under this subpart (other than this section and sections 24, 25A(i), 25B, 25D, 30, 30B, 30D).

"(f) WHEN EXPENDITURES TAKEN INTO ACCOUNT.—Qualified rehabilitation expenditures shall be treated for purposes of this section as made—

"(1) on the date the rehabilitation is completed, or

"(2) to the extent provided by the Secretary by regulation, when such expenditures are properly chargeable to capital account.

Regulations under paragraph (2) shall include a rule similar to the rule under section 50(a)(2) (relating to recapture if property ceases to qualify for progress expenditures).

"(g) RECAPTURE.—

"(1) IN GENERAL.—If, before the end of the 5-year period beginning on the date on which the rehabilitation of the building is completed—

"(A) the taxpayer disposes of such taxpayer's interest in such building, or

"(B) such building ceases to be used as the principal residence of the taxpayer or ceases to be a certified historic structure,

the taxpayer's tax imposed by this chapter for the taxable year in which such disposition or cessation occurs shall be increased by the recapture percentage of the credit allowed under this section for all prior taxable years with respect to such rehabilitation.

"(2) RECAPTURE PERCENTAGE.—For purposes of paragraph (1), the recapture percentage shall be determined in accordance with the table under section 50(a)(1)(B), deeming such table to be amended—

"(A) by striking 'If the property ceases to be investment credit property within—' and inserting 'If the disposition or cessation occurs within—', and

"(B) in clause (i) by striking 'One full year after placed in service' and inserting 'One full

year after the taxpayer becomes entitled to the credit'.

"(3) TRANSFER BETWEEN SPOUSES OR INCIDENT TO DIVORCE.—In the case of any transfer described in subsection (a) of section 1041 (relating to transfers between spouses or incident to divorce)—

"(A) the foregoing provisions of this subsection shall not apply, and

"(B) the same tax treatment under this subsection with respect to the transferred property shall apply to the transferee as would have applied to the transferor.

"(h) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(i) PROCESSING FEES.—Any State may impose a fee for the processing of applications for the certification of any rehabilitation under this section provided that the amount of such fee is used only to defray expenses associated with the processing of such applications.

"(j) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section for any amount for which credit is allowed under section 47.

"(k) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations where less than all of a building is used as a principal residence and where more than 1 taxpayer use the same dwelling unit as their principal residence.".

(b) CONFORMING AMENDMENTS.—

(1) Sections 24(b)(3)(C), 25(e)(1)(C), 25B(g)(2), 26(a)(1), 30B(g)(2)(B)(ii), and 1400C(d)(2) of such Code are each amended by inserting "25E," after "25D,".

(2) Sections 25A(i)(5)(A) and 30(c)(2)(B) of such Code are each amended by inserting ", 25E," after "25D".

(3) Sections 30D(c)(2)(B)(ii) and 1400C(d)(1) of such Code are each amended by striking "section 25D" and inserting "sections 25D and 25E".

(4) Paragraph (1) of section 1400C(d) of such Code is amended by striking "section 25D" and inserting "sections 25D and 25E".

(5) Subsection (a) of section 1016 of such Code is amended by striking "and" at the end of para-

graph (36), by striking the period at the end of paragraph (37) and inserting ", and", and by adding at the end the following new item:

"(38) to the extent provided in section 25E(h).".

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 25D the following new item:

"Sec. 25E. Rehabilitation of historic principal residences.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to rehabilitations the physical work on which begins after the date of enactment of this Act.

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